

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,611

IN THE MATTER OF:

Served May 27, 2015

Application of SPARKLE PINK)	Case No. AP-2015-024
PRINCESS, LLC, for a Certificate of)	
Authority -- Irregular Route)	
Operations)	

This matter is before the Commission on the application of Sparkle Pink Princess, LLC, for a certificate of authority to transport passengers for hire in human-powered pedicabs under the Washington Metropolitan Area Transit Regulation Compact.¹

The Compact applies to the transportation for hire by any carrier of persons between any points in the Metropolitan District.² The Compact defines the term "carrier" to mean "a person who engages in the transportation of passengers by motor vehicle or other form or means of conveyance for hire."³ "'Motor vehicle' means an automobile, bus, or other vehicle propelled or drawn by mechanical or electrical power on the public streets or highways of the Metropolitan District and used for the transportation of passengers."⁴

Although a human-powered pedicab would appear to fit within the scope of "other form or means of conveyance," Commission precedent indicates otherwise. According to *In re Old Vet Carriage Co., Inc.*, No. MP-83-03, Order No. 2471 (Sept. 23, 1983), the Commission's jurisdiction does not encompass transportation in non-artificially powered vehicles, such as horse-drawn carriages.

Based on [our] review of Washington's transportation history and the legislative history of the Compact, we find that the signatory jurisdictions and the Congress intended this Commission to deal with transit and traffic

¹ Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990), amended by Pub. L. No. 111-160, 124 Stat. 1124 (2010) (amending tit. I, art. III).

² Compact, tit. II, art. XI, § 1. The Metropolitan District includes: the District of Columbia; the cities of Alexandria and Falls Church of the Commonwealth of Virginia; Arlington County and Fairfax County of the Commonwealth of Virginia, the political subdivisions located within those counties, and that portion of Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's County of the State of Maryland, and the political subdivisions located within those counties Compact, tit. I, art. I.

³ Compact, tit. II, art. XI, § 4(a).

⁴ Compact, tit. II, art. XI, § 4(b).

problems then existing and those which might develop in the future. We can divine no intent for us to regulate transportation by horse *or any other form of conveyance not artificially powered*. We further find, therefore, that the term "other form or means of conveyance" . . . was intended to have a present and prospective meaning so as to include either then-common transportation modes or modes which might become common in the future. (Emphasis added).

Order No. 2471 at 6, *overruling In re Horse Buses, Inc.*, No. 391, Order No. 682 (Mar. 1, 1967).

Applicant confirms that the pedicabs it proposes operating are not "powered to any degree by a mechanical or electrical motor." And as compared to the thousands of sedans, vans, minibuses, and motor coaches transporting passengers for hire throughout the Washington Metropolitan Area, the fewer than 100 pedicabs⁵ operating in Downtown DC do not constitute a common mode of transportation within the meaning of *Old Vet Carriage Co.*

We find *Old Vet Carriage Co.* controlling on this issue and conclude that a WMATC certificate of authority is not a prerequisite to operating a pedicab not powered to any degree by a mechanical or electrical motor.

Accordingly, the application is dismissed for lack of jurisdiction.

IT IS SO ORDERED.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER, HOLCOMB, AND DORMSJO:

A handwritten signature in black ink, appearing to read 'W. S. Morrow, Jr.', is positioned above the printed name of the Executive Director.

William S. Morrow, Jr.
Executive Director

⁵ As of April 20, 2015 the number of DC pedicabs approximated 75. See <http://www.godcgo.com/home/ways-to-get-around/additional-resources/pedicabs.aspx>.